IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1428 of 1999

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 27.7.1999 in W.P.No. 9390 of 1999 on the file of the High Court.)

Between:

Girijan Cooperative Cooperation Limited,

Rep. By its Vice-Chairman & Managing Director,

Near Vuda Bank, Visakhapatnam.

..... APPELLANT

AND

1. State of Andhra Pradesh, rep. By its

   Principal Secretary, Food and Agriculture Dept.

   Secretariat, Hyderabad.

2. State of Andhra Pradesh, rep. By its

   Principal Secretary, Social Welfare Dept.

   Secretariat, Hyderabad.

3. State of Andhra Pradesh, rep. By its

   Principal Secretary, Tribal Welfare Dept.

   Secretariat, Hyderabad.

4. The Commissioner and Registrar of cooperative Societies,

Government of Andhra Pradesh, Nampally, Hyderabad

5. D. Yesudas, S/o. D. Vandanm, aged 61 years,

0ccu: Retd. Govt. Servant, R/o. Sector-II,

Plot No.5, M.E.P. Colony, Visakhapatnam.

.....RESPONDENTS

Counsel for the Appellant : MR.C.V.MOHAN REDDY,Standing Counsel.

Counsel for the Respondents 1 to 4: G.P. For Social Welfare.

Counsel for the Respondent No.5: Mrs. Tara Sujatha, advocate representing MR.A.HANUMANTHA REDDY.

The Court made the following :

Judgment: (Per Hon'ble Mrs. Justice T. Meena Kumari)

This writ appeal is filed by the appellant/respondent against the order of the learned single Judge of this court in W.P.No.9390 of 1999, dated 27.7.1999.

2. The above writ petition was filed seeking issuance of writ of mandamus declaring the action of the respondents therein in not paying the salary of the petitioner, who is the 5th respondent herein, as arbitrary, illegal and violative of the fundamental rights, and consequently to direct the respondents to pay his salary along with interest.

3. The main contention urged by the learned Standing Counsel appearing for the appellant is that even before issuance of the notice, and the papers in the writ petition were served on the Standing Counsel of the appellant, the learned single Judge has decided the writ petition itself on merits by the impugned order, and directed the appellant to pay the arrears due to the petitioner therein within four weeks from the date of receipt of the impugned order. Hence, the learned Standing Counsel sought to set aside the impugned order.

4. Heard the learned counsel for the appellant and Smt. Tara Sujatha, representing the learned counsel for the 5th respondent, and considered the material on record.

5. A perusal of the original records and the docket proceedings of the writ petition shows that no papers in the writ petition were served on the Standing Counsel for the appellant Corporation, and the matter was adjourned from time to time for filing

additional affidavit. However, the matter was finally decided even before the notice was served on the appellant-Corporation, and even before filing a counter by the Corporation.

6. Under the above circumstances, we have no hesitation to set aside the impugned order passed by the learned single Judge and restore the writ petition. Accordingly, the impugned order is set aside, and the matter is restored. The Registry is directed to post the matter before the appropriate Court hearing the writ petitions.

7. The learned counsel appearing for the appellant has submitted that there is an interim order directing the appellant corporation to make payment, and the corporation has complied with the same. In view of the above, we make the interim order passed in WAMP No. 2591 of 1999, dated 22.11.1999, as absolute, and make it clear that such payment would be subject to the result of the writ petition.

8. Accordingly, the writ appeal is allowed. No costs.

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T. Meena Kumari, J.

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S. Ananda Reddy, J.

Dt. 22.02.2005

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To

1. Principal Secretary, Food and Agriculture Dept.

   State of Andhra Pradesh, Secretariat, Hyderabad.

2. Principal Secretary, Social Welfare Dept.

State of Andhra Pradesh, Secretariat, Hyderabad.

3. Principal Secretary, Tribal Welfare Dept.

State of Andhra Pradesh , Secretariat, Hyderabad.

4. The Commissioner and Registrar of Cooperative Societies,

Government of Andhra Pradesh, Nampally, Hyderabad,

5. Two copies to G.P. for Social Welfare, High Court Buildings,

Hyderabad (OUT)

6. 2 CD copies.

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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WRIT APPEAL No. 1428 of 1999

JUDGMENT

22.02.2005